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OFFICE OF PETITIONS

In re Application of :
Yeo et al. :
Application No. 09/470,299 : ON PETITION
Filed: 22 December, 1999 :
Atty Docket No. 042390.P7940 :

This is a decision on the petition filed on 27 September, 2005, under 37 CFR 1.137(b)¹, to revive the above-identified application.

The petition is **GRANTED**.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on 20 September, 2003, for failure to file a proper reply to the final Office action mailed on 19 June, 2003, which set a three (3) month shortened statutory period for reply. On 21 August, 2003, petitioners filed an amendment after final rejection. The amendment did not place the case in condition for allowance, however, and an Advisory Action was mailed on 9 September, 2003. Notice of Abandonment was mailed on 16 April, 2004. The petition to withdraw the holding of abandonment filed on 6 May, 2004, was dismissed on 10 November, 2004. The renewed petition to withdraw the holding of abandonment filed on 14 January, 2005, was dismissed on 17 August, 2005.

Petitioners have filed a Request for Continued Examination (RCE) and have indicated that the previously filed amendment is the submission required under 37 CFR 1.114.

This application is being referred to Technology Center 2600 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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